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BY APPOINTMENT ONLY

March 6, 2012

Via ECF

Hon. Steven M. Gold
United States Chief Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Patrick Alford, et al v. The City of New York.*
Docket Number: CV 11-1583

Rodriguez v. The City of New York
Docket Number: CV 10 -4661

Dear Judge Gold:

This office represents plaintiffs, Patrick Alford, Sr. and J.A., in the above referenced matter.

Pursuant to this Court's scheduling Order, depositions of the plaintiffs, Jennifer Rodriguez and Patrick Alford, Sr., are to take place on March 5th, 6th, and 7th. Depositions of the defendants are to take place March 14th, 15th, and 16th.

On Friday, March 2nd, 2012, I received an e-mail from Suzanne Halbardier, Esq., the attorney for defendant, New York City, requesting that I produce my infant client, J.A., for a deposition on Tuesday, March 6th, 2012.

Aside from the logistical problems associated with receiving only four days' notice of the deposition, there are other significant issues raised by this request. J.A. is only six years old, and was only four years old when the events which give rise to this lawsuit occurred, which raises the question of whether she is able to understand the oath and be sworn. In addition, J.A. was

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present during the recent home invasion in which her father, Patrick Alford, Sr., was shot in the head. She witnessed the incident and made the 911 call which saved his life. She is receiving individual and family therapy to help her deal with that incident, and is presently in the care of Shareema Bruington, Mr. Alford's girlfriend, while Mr. Alford remains hospitalized recovering from his injuries. They have been relocated not only for security reasons, but also because their former residence is now a crime scene. In a recent telephone call I had with Ms. Bruington, she expressed grave concern for J.A.'s mental and emotional well-being when I advised her that the defendants were seeking to question J.A. about the events which give rise to the instant lawsuit and she stated that she believed that doing so would not be in J.A.'s best interests.

Upon receiving Ms. Halbardier's letter I telephoned her to discuss my concerns, and we further discussed same with all counsel after the deposition of Jennifer Rodriguez on Monday, March 5th, 2012. I also advised counsel that I did not believe that the Court's scheduling Order, which provides deposition dates for plaintiffs Jennifer Rodriguez and Patrick Alford, Sr.¹, as well as for defendants New York City and St. Vincent's Services, was intended to also provide for the deposition of J.A., since neither defendant ever mentioned taking the deposition of J.A. during the conference which resulted in the Order. I suggested that we proceed with the depositions as contemplated by the Order and agree to postpone the issue of the deposition of J.A. until the issues can be explored and addressed in conference with the Court. Defense counsel advised that, while they understood my concerns, they were compelled to demand the deposition of J.A. because of the Court's Scheduling Order, inasmuch as they did not want to be perceived as having waived the deposition of J.A. by failing to demand same.

In light of the above, I am respectfully requesting that the Court permit all counsel to preserve their respective rights with regard to defendant's request for a deposition of J.A. and that the Court schedule a conference to address the issues presented by the defendants request for a deposition of J.A.

Respectfully,

James R. Lambert

James R. Lambert

JRL:lmr
Alford, Patrick/letter to Magistrate Steven Gold 3.6.12
cc: All Counsel via ECF

¹ Who, as the Court and counsel are aware, will not be deposed as originally scheduled in that Order due to his injuries.